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OFFICE OF PETITIONS

Amylin Pharmaceuticals, Inc
9360 Towne Center Drive
San Diego, CA 92121

In re Application of
De Paoli et al.
Application No. 10/623,189
Patent No. 7,183,254
Filed: July 18, 2003
Attorney Docket: 1311US-CON

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: DECISION DISMISSING PETITION
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This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT under 37 CFR 1.705(d)" timely¹ filed on March 29, 2007 requesting that the Patent Term Adjustment be adjusted from a determination of 284 days to a determination of 495 days.

Patentees' petition is **DISMISSED**.

Patentees argue that the Office erred in failing to provide an adjustment for over 3 years to issue from the from the filing of the application under 37 CFR 1.704(c)(10). Patentees assert that the proper amount of PTA related to the 3-year provision is two hundred and eleven(211) days. Patentees assert that the two hundred and eleven (211) days should be added to the 284 days provided to applicants. Patentees do not contest the 481 days awarded pursuant to 37 CFR 1.702(a)(1) or the (5) and (70) day reductions under 37 CFR 1.704(b) days awarded to patentees pursuant to 37 CFR 1.702(a)(4).

Patentees arguments are not persuasive. Patentees are advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). Since the Office delays under 37 CFR 1.702(a)(1) and (a)(4) are greater than the delay for 37 CFR 1.702(b), applicants will receive no additional PTA time.

¹Patent issued on February 27, 2007.

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After review of this decision, this application will be forwarded to the file repository for storage of such patented file.

The Office acknowledges the receipt of \$200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: PAIR calculation

Day : Thursday
Date : 8/30/2007

PALM INTRANET

Time: 12:47:55

PTA Calculations for Application: 10/623189

Application Filing Date:	07/18/2003	PTO Delay (PTO):	481
Issue Date of Patent:	02/27/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	197
Post-Issue Petitions:	0	Total PTA (days):	284
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66.5	02/07/2007	PTA 36 MONTHS			
66	02/27/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
65	01/26/2007	EXPORT TO FINAL DATA CAPTURE			
64	01/25/2007	DISPATCH TO FDC			
63	01/16/2007	FINISHED INITIAL DATA CAPTURE			
62	01/17/2007	DISPATCH TO FDC			
61	11/29/2006	ISSUE FEE PAYMENT VERIFIED			
60	11/29/2006	ISSUE FEE PAYMENT RECEIVED			
59	12/06/2006	REVERSAL OF ISSUE FEE PAYMENT			
58	11/29/2006	RESPONSE TO REASONS FOR ALLOWANCE			
57	12/04/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
56	11/29/2006	ISSUE FEE PAYMENT VERIFIED			
55	10/04/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
54	09/28/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
53	09/14/2006	CORRESPONDENCE ADDRESS CHANGE			
52	09/14/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
51	09/12/2006	SEQUENCE FORWARDED TO PUBS ON TAPE			
50	09/01/2006	EXPORT TO INITIAL DATA CAPTURE			
49	08/29/2006	MAIL NOTICE OF ALLOWANCE			
48	08/29/2006	MAIL EXAMINER'S AMENDMENT			
47	08/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	08/25/2006	EXAMINER'S AMENDMENT COMMUNICATION			

45	08/25/2006	ISSUE REVISION COMPLETED			
44	08/25/2006	DOCUMENT VERIFICATION			
43	08/25/2006	NOTICE OF ALLOWABILITY			
42	07/05/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	08/21/2006	CORRESPONDENCE ADDRESS CHANGE			
39	07/13/2006	MAIL NON-FINAL REJECTION			
38	07/10/2006	NON-FINAL REJECTION			
37	06/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	06/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		70	32
35	01/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	11/14/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	04/26/2006	DATE FORWARDED TO EXAMINER			
32	04/17/2006	RESPONSE TO ELECTION / RESTRICTION FILED		5	30
31	04/17/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	01/12/2006	MAIL RESTRICTION REQUIREMENT	481		-1
29	01/09/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
28	11/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	11/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
26	01/16/2004	REFERENCE CAPTURE ON IDS			
25	01/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/24/2003	PRELIMINARY AMENDMENT			
23	11/14/2003	REFERENCE CAPTURE ON IDS			
22	11/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/19/2004	APPLICATION RETURN FROM OIPE			
20	10/19/2004	APPLICATION RETURN TO OIPE			
19	10/19/2004	APPLICATION RETURN FROM OIPE			
18	10/19/2004	APPLICATION IS NOW COMPLETE			
17	10/19/2004	APPLICATION RETURN TO OIPE			
16	10/19/2004	APPLICATION DISPATCHED FROM OIPE			
15	10/19/2004	APPLICATION IS NOW COMPLETE			
		PAYMENT OF ADDITIONAL FILING			

14	09/24/2004	FEE/PREEXAM		122	8
11	07/18/2003	CLAIM PRELIMINARY AMENDMENT			
9	09/24/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	02/25/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
6	11/07/2003	CLEARED BY L&R (LARS)			
5	10/09/2003	INTENTIONALLY REFERRED BY OIPE OR L&R			
4	09/16/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/31/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	07/18/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/18/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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